

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION**

PASCUAL AVALOS,

Plaintiff,

V.

STATE FARM LLOYDS,

Defendant.

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CIVIL ACTION NO: _____

DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL

TO THE HONORABLE COURT:

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant State Farm Lloyds ("State Farm file this Notice of Removal to the United States District Court for the Northern District of Texas, Abilene Division, on the basis of diversity of citizenship and amount in controversy and respectfully show:

**I.
FACTUAL AND PROCEDURAL BACKGROUND**

On August 12, 2016, Plaintiff Pascual Avalos filed his Original Petition in the matter styled *Pascual Avalos vs. State Farm Lloyds*, Cause No. 26794-B, in the 104th Judicial District Court of Taylor County, Texas. The lawsuit arises out of a claim Plaintiff made for damages to his property under insurance policy no. 93-CJ-B477-7, issued by State Farm Lloyds effective February 27, 2014 through February 27, 2015.

Plaintiff served State Farm with a copy of the Original Petition on or about August 29, 2016.

Defendant State Farm files this Notice of Removal within 30 days of receiving Plaintiff's pleading. *See* 28 U.S.C. §1446(b). In addition, this Notice of Removal is being filed within one year of the commencement of this action. *See id.*

All pleadings, process, orders, and other filings in the state court action are attached to this Notice as required by 28 U.S.C. §1446(a). A copy of this Notice is also concurrently being filed with the state court and served upon the Plaintiff. As required by 28 U.S.C. § 1446(a), and Rule 81.1 of the Local Rules for the United States District Court of the Northern District of Texas, being filed simultaneously with the filing of this Notice of Removal is an Index of State Court Documents, which is attached hereto as Exhibit "A." A copy of the District Clerk's Case Summary sheet is attached hereto as Exhibit "B." Plaintiff's Original Petition is attached hereto as Exhibit "C" and a copy of the Citation to State Farm Lloyds is attached hereto as Exhibit "D." Defendant State Farm Lloyds' Verified Denial and Original Answer to Plaintiff's Original Petition is attached hereto as Exhibit "E." Also included with this filing is Defendant's Certificate of Interested Persons, which is attached hereto as Exhibit "F" and a Supplemental Cover Sheet.

Venue is proper in this Court under 28 U.S.C. §1441(a) because this district and division embrace Taylor County, Texas, the place where the removed action has been pending and where the incident giving rise to this lawsuit took place.

II.

BASIS FOR REMOVAL

Removal is proper based on diversity of citizenship under 28 U.S.C. §§1332(a), 1441(a) and 1446.

A. The Proper Parties Are Of Diverse Citizenship

Plaintiff is, and was at the time the lawsuit was filed, resident of Taylor County, Texas, and citizen of the State of Texas. *See* Pl's Original pg. 1, attached hereto as Exhibit "C."

Defendant State Farm Lloyds, is, and was at the time the lawsuit was filed, a citizen of the State of Illinois. State Farm Lloyds is a "Lloyd's Plan" organized under Chapter 941 of the Texas Insurance Code. It consists of an association of underwriters, each of whom, at the time this action was commenced were, and still are, citizens and residents of the state of Illinois. Therefore, State Farm Lloyds is a citizen and resident of the state of Illinois for diversity purposes. *Royal Ins. Co. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882 (5th Cir. 1993); *Massey v. State Farm Lloyd's Ins. Co.*, 993 F. Supp. 568, 570 (S.D. Tex. 1998 ("the citizenship of State Farm Lloyds must be determined solely by the citizenship of its members, or underwriters."); *Rappaport v. State Farm Lloyd's*, 1998 WL 249211 (N.D. Tex. 1998) (finding that State Farm Lloyd's is an unincorporated association whose members are completely diverse with Plaintiff, and denying remand).

Because Plaintiff is a citizen of Texas and Defendant State Farm is a citizen of Illinois, complete diversity of citizenship exists among the proper parties.

B. The Amount in Controversy Exceeds \$75,000.00

This is a civil action in which the amount in controversy exceeds \$75,000. Plaintiff's Petition expressly alleges that "Plaintiff seeks monetary relief of over \$0 but not more than \$100,000." *See* Exhibit C ¶ 56.

Furthermore, Plaintiff seeks "additional damages under the DTPA, section 17.50(b)(1), as well as all operative provisions of the Texas Insurance Code" *Id.* ¶ 57. Accordingly, the amount in controversy exceeds \$75,000.

III.
CONCLUSION AND PRAYER

All requirements are met for removal under 28 U.S.C. §§ 1332, 1441, and 1446. Accordingly, State Farm Lloyds hereby remove this case to this Court for trial and determination.

Respectfully submitted,

s/Rhonda J. Thompson

Rhonda J. Thompson
State Bar No.: 24029862

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**COUNSEL FOR DEFENDANT
STATE FARM LLOYDS**

CERTIFICATE OF SERVICE

The undersigned certifies that on the 23rd day of September, 2016, the foregoing pleading was served on the following counsel of record in accordance with the Federal Rules of Civil Procedure:

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s/Rhonda J. Thompson

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